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## **POSTAL SERVICE**

### **39 CFR Part 230**

#### **Procedures Relating to the Disposition of Property Acquired by the United States**

##### **Postal Service Office of Inspector General for Use as Evidence**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule establishes procedures for the disposition of abandoned property held by the United States Postal Service Office of Inspector General. The rule establishes procedures for determining the ownership of abandoned property, the advertisement of abandoned items with no apparent owner held by the Office of Inspector General, and the disposal of items declared abandoned.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Written comments should be directed to the Office of Inspector General, Office of General Counsel, 1735 North Lynn Street, Arlington, Virginia 22209-2013. Copies of all written comments will be available at that address for inspection and copying between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Gladis Griffith, Office of General Counsel, (703) 248-4683.

**SUPPLEMENTARY INFORMATION:** In the course of conducting official investigations, Special Agents of the United States Postal Service Office of Inspector General frequently recover property lost or stolen from the mail and obtain custody of property needed for use as evidence in proceedings to enforce various provisions of the United

States Code. In most cases, such property is returned to the owner at the conclusion of the investigation or any resulting administrative or judicial proceedings. In some cases, however, the owners fail to claim property, and it therefore remains in the custody of the Office of Inspector General after it is no longer needed. The proposed rule would establish a fair and uniform procedure to identify the owners of such property, afford them an opportunity to claim its return, and in the event a valid claim is not received, treat such property as abandoned and direct that it be sold or put to official use. Apparent owners would be notified of their right to claim property, and where no apparent owner is known and the value of the property in question exceeds \$200, notice would be published on the Office of Inspector General's website inviting the owner to submit a claim for its return.

#### **List of Subjects in 39 CFR Part 230**

Administrative practice and procedure, Claims, Law enforcement, Property (abandoned).

For the reasons stated in the preamble, the Postal Service proposes to amend 39 CFR part 230 as follows:

#### **PART 230 – OFFICE OF INSPECTOR GENERAL**

1. The authority citation for part 230 continues to read as follows:

**Authority:** 5 U.S.C. App.3; 39 U.S.C. 401(2) and 1001.

2. Add the subpart C to read as follows:

**Subpart C – Rules of Procedure Relating to the Disposition of Stolen Mail Matter and Property Acquired by the Office of Inspector General for Use as Evidence**

Sec.	
230.30	Scope.
230.31	Definitions.
230.32	Disposition of property of apparent owners where property is valued over \$200.
230.33	Disposition of property of apparent owners where property is valued at \$200 or less.
230.34	Disposition of property of unknown owners where property is valued over \$200.
230.35	Disposition of property of unknown owners where property is valued at \$200 or less.
230.36	Contraband and property subject to court order.
230.37	Determination of type of property.
230.38	Disposition of abandoned property; additional period for filing claims.
230.39	Submission of claims.
230.40	Determination of claims.
230.41	Reconsideration of claims.
230.42	Disposition of property declared abandoned where title vests in the government.

#### **§ 230.30      Scope.**

This subpart prescribes procedures governing the disposition of any property (real, personal, tangible, or intangible) obtained by the United States Postal Service Office of Inspector General (Office of Inspector General) for possible use as evidence after the need to retain such property no longer exists.

#### **§ 230.31      Definitions.**

The following definitions apply to this subpart:

- (a) *Apparent*. That which is clear, plain, and evident.
- (b) *Owner*. The person recognized by the law as having the ultimate control over and right to use the property.
- (c) *Ruling official*. The official who has the authority to grant or deny the claim for the abandoned or other unclaimed property where the property is located, typically the Executive Special Agent in Charge, or a designee. If, however, the property is a firearm

or contraband, the Executive Special Agent in Charge should consult with the Office of Inspector General, Office of General Counsel prior to commencing the abandonment action.

(d) *Claimant*. The person who submitted the claim for the abandoned or other unclaimed property.

(e) *Owner*. The person recognized by the law as having the ultimate control over and right to use the property.

**§ 230.32      Disposition of property of apparent owners where property is valued over \$200.**

Where an apparent owner of property subject to this subpart is known, and the estimated value of the property exceeds \$200, the owner shall be notified by certified mail at his last known address. The written notice shall describe the property and the procedure for filing a claim for its return (see, §§ 230.36 and 230.39). Such claims must be filed within 30 days from the date the written notice is postmarked. If the apparent owner of the property fails to file a timely claim, the property is considered abandoned and must be disposed of as provided in § 230.38.

**§ 230.33      Disposition of property of apparent owners where property is valued at \$200 or less.**

Where an apparent owner of property subject to this subpart is known, and the estimated value of the property is \$200 or less, the Executive Special Agent in Charge, or a designee, should attempt to return the property to the owner. If successful, the Executive Special Agent in Charge shall request the owner sign a Hold Harmless

Agreement. If not, the Executive Special Agent in Charge shall vest title in the Government.

**§ 230.34      Disposition of property of unknown owners where property is valued over \$200.**

(a) Where no apparent owner of property subject to this subpart is known, except property described in § 230.36, and the estimated value of the property exceeds \$200, the Executive Special Agent in Charge, or a designee, must publish notice providing the following information:

- (1) A description of the property, including model or serial numbers, if known;
- (2) A statement of the location where the property was found;
- (3) The name, address, and telephone number of the Executive Special Agent in Charge who has custody of the property; and
- (4) A statement inviting any person who believes he or she is fully entitled to the property to submit a claim for its return with the Executive Special Agent in Charge identified in the notice. Such claim must be submitted within 30 days from the date of first publication of the notice.

(b) The notice under paragraph (a) of this section must be published for three consecutive weeks on the Office of Inspector General's website.

**§ 230.35      Disposition of property of unknown owners where property is valued at \$200 or less.**

Where the owner of property subject to this subpart is unknown and the estimated value of the property is \$200 or less, no notice is required, and the Executive

Special Agent in Charge, or a designee, should vest title in the Government, subject to the rights of the owner to submit a valid claim as provided in § 230.38.

**§ 230.36      Contraband and property subject to court order.**

Claims submitted with respect to property subject to this subpart, possession of which is unlawful, must be denied, in writing, by certified mail, and the person submitting the claim must be accorded 45 days from the postmarked date to institute judicial proceedings to challenge the denial. If judicial proceedings are not instituted within 45 days, or any extension of time for good cause shown, the contraband property must be destroyed unless the Executive Special Agent in Charge, or a designee, determines that it should be placed in official use by the Office of Inspector General. Property subject to this part, the disposition of which is involved in litigation or is subject to an order of court, must be disposed of as determined by the court.

**§ 230.37      Determination of type of property.**

If the Office of Inspector General is unable to determine whether the personal property in its custody is abandoned or voluntarily abandoned, it shall contact the Office of Inspector General, Office of General Counsel for such a determination.

**§ 230.38      Disposition of abandoned property; additional period for filing claims.**

(a) Upon expiration of the time provided in §§ 230.32 and 230.34 for the filing of claims or any extension thereof, and without the receipt of a timely claim, the property described in the notice is considered abandoned and becomes the property of the Government. However, if the owner satisfies the requirements of paragraph (b) of this section, except for property described in § 230.36, such abandoned property must be

returned to the owner if a valid claim is filed within three years from the date the property became abandoned, with the following qualifications:

(1) Where property has been placed in official use by the Office of Inspector General, a person submitting a valid claim under this section must be reimbursed the fair market value of the property at the time title vested in the Office of Inspector General, less costs incurred in returning or attempting to return such property to the owner; or

(2) Where property has been sold, a person submitting a valid claim under this section must be reimbursed the same amount as the last appraised value of the property prior to the sale of such property.

(b) In order to present a valid claim under paragraph (a) of this section, the claimant must establish he or she had no actual or constructive notice that he or she was entitled to file a claim pursuant to § 230.32 or § 230.34 prior to the date the property became abandoned. Publication of a notice pursuant to § 230.34 provides constructive notice, unless a claimant can demonstrate circumstances that reasonably precluded his or her access to the published notice.

#### **§ 230.39      Submission of claims.**

Claims submitted pursuant to this subpart must be submitted on Postal Service Form 1503, which may be obtained from the Executive Special Agent in Charge who has custody of the property.

#### **§ 230.40      Determination of claims.**

Upon receipt of a claim under this subpart, the Office of Inspector General must conduct an investigation to determine the merits of the claim. The results of the

investigation must be submitted to the ruling official, who must approve or deny the claim by written decision, a copy of which must be forwarded to the claimant by certified mail. If the claim is granted, the conditions of relief and the procedures to be followed to obtain the relief shall be set forth. If the claim is denied, the claimant shall be advised of the reason for such denial.

**§ 230.41      Reconsideration of claims.**

A written request for reconsideration of denied claims must be based on evidence recently developed or not previously presented. It must be submitted within 10 days of the postmarked date of the letter denying the claim. The ruling official shall advise the Asset Forfeiture Coordinator if a timely reconsideration of the denial is made. The Office of Inspector General, Office of General Counsel shall rule on the reconsideration request.

**§ 230.42      Disposition of property declared abandoned where title vests in the government.**

Property declared abandoned, including cash and proceeds from the sale of property subject to this part, may be shared with federal, state, or local agencies. Abandoned property may also be destroyed, sold, or placed into official use. However, before abandoned property can be shared with another agency, sold, or placed into official use, the Executive Special Agent in Charge must confer with the Office of Inspector General, Office of General Counsel. Unless the Executive Special Agent in Charge determines the cash or proceeds of the sale of the abandoned property are to be shared with other law enforcement agencies, such cash or proceeds shall be



converted to money orders and transmitted to: United States Postal Service, Disbursing Officer, 2825 Lone Oak Parkway, Eagan, MN 55121-9640.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

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